sufficient evidence to show that the plaintiffs were in fact moneylenders.

On considering the whole of the evidence in the case I have come to the conclusion that the transaction was in fact a loan transaction, i.e. the Bill of Sale of the 11th May, 1952 (Exhibit P. 1) together with the Agreement prepared by Abdul Majid (P.W. 5) dated 11th May, 1952. On this point I accept the evidence of the defendant and that of Abdul Majid, plaintiffs' fifth witness. The Bill of Sale being therefore given by way of security and not being registered in accordance with section 3 of the Bills of Sale Enactment (No. 39 of Johore) I hold to be invalid and the plaintiffs' claim is accordingly dismissed with costs.

With regard to the counterclaim, I give judgment to the defendant in the terms of paragraphs (a), (b) and (c) and costs.

Judgment for the defendant.

Solicitors: *Pillai & Co.; Mitra & Co.*

HARBAN SINGH v. REGINA.

[A. Cr. J. (Murray-Aynsley, C.J.) April 29, 1954]

[Singapore — Magistrate's Appeal No. 247 of 1953]

Criminal law and Procedure — View of the scene of incident by Magistrate in the absence of accused and accused's counsel.

The appellant was charged in the Court below with driving a car at a roundabout in a dangerous manner an offence under s. 25(1) of the Road Traffic Ordinance, 1941, and punishable under the same section. The case for the prosecution was that the accused at 6.55 p.m. on the day in question drove right handed into Canberra Road from Admiralty Road without negotiating the roundabout while at the same moment a police jeep was emerging from the Canberra Road cutting, — the jeep narrowly avoiding a serious accident. The appellant denied the charge but admitted that his car was there at the alleged time but urged that he passed round the roundabout in the correct and legal manner. The learned Magistrate after the conclusion of the evidence visited the scene of the incident in the company of the prosecuting officer but without the presence of the accused or his counsel, and without having informed either of them of the time when he proposed to view the scene. As a result of his visit he formed certain opinions on which his judgment was largely based. No evidence was produced as to the importance of the "lay out".

Held: if the lay out was of importance evidence should have been produced on the subject. Retrial ordered.

MAGISTRATE'S APPEAL.

A. P. Godwin for the appellant.

G. S. Hill (Crown Counsel) for the respondent.

Murray-Aynsley, C.J.: — In this case the Magistrate had a "view" in the absence of the appellant after the conclusion of the evidence He then formed certain opinions on which his judgment seems to have been largely based. If the "lay out" was of importance I think evidence should have been produced on the subject. The defence would then have had an opportunity to deal with the matter.

Retrial ordered.

Solicitors for the appellant: *Donaldson & Burkinshaw.*

CHIEW YOKE KENG & ANOR. v. PUBLIC PROSECUTOR.

[A. Cr. J. (Matthew, C.J.) May 26, 1954]

[K. L. — Magistrate's Criminal Appeal No. 39 of 1954]

Courts Ordinance, 1948, s. 63(2) — Jurisdiction of Sessions Court — Necessity of strict compliance with conditions laid down to give Court jurisdiction.

In this case the appellants were charged before the Sessions Court and convicted of offences under ss. 373 and 372 of the Penal Code. There was nothing on the record to indicate whether there was an application by the Public Prosecutor nor whether the applicants consented to being tried by the Sessions Court.

Held: (1) before a Sessions Court can have jurisdiction in cases punishable with sentences of imprisonment in excess of seven years the two conditions contained in s. 63(2) of the Courts Ordinance must be complied with, i.e. (i) the Public Prosecutor must apply for the case to be tried and (ii) the accused must consent to being so tried; (2) the two conditions must be strictly complied with and unless they are complied with the Sessions Court has no jurisdiction; (3) as there was no evidence in this case that the conditions had been complied with the Sessions Court had no jurisdiction and the convictions must be set aside.

Case referred to:—

(1) *Mohindar Singh v. The King,* (1950) A.C. 345; (1950) M.L.J. 97.

MAGISTRATE'S CRIMINAL APPEAL.

Dato Sir Roland Braddell (*Ng Ek Teong* with him) for the appellants.

E. Brown (Federal Counsel) for the respondent.

Mathew, C.J.: — The appellants in this case were convicted of offences under sections 373 and 372 of the Penal Code, and were each sentenced to four years imprisonment.

Both these offences are punishable with ten years imprisonment, and the Sessions Court has jurisdiction to try these offences only if the provisions of sub-section (2) of section 63 of the Courts Ordinance have been complied with. This sub-section reads:—

"Notwithstanding the provisions of sub-s. (1), a Sessions Court may try any offence, other than an offence punishable with death or imprisonment for life, if —

(a) the Public Prosecutor applies to such Court to try such offence; and

(b) the accused consents, or if more persons than one are charged together with the same offence, all such accused consent, to be tried by such Court."